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Exhibit A

From: "Rivera, Richard" <rrivera@sgrlaw.com>
To: Gary Schepps <legal@schepps.net>
Subject: RE: Fee Amount
Delivery-date: Tue, 06 Jul 2021 20:08:21 -0400

Gary,

For your convenience, here are the rates for the people included in the fee request:

Alan Wachs, Partner, \$350 per hour
Richard Rivera, Partner, \$340 per hour
Deanna Smith, Paralegal, \$220 per hour

Thank you,
Rich

Richard D. Rivera

Attorney at Law

p | 904-598-6157
f | 904-598-6257
e | rrivera@sgrlaw.com
50 N. Laura Street | Suite 2600 | Jacksonville, FL 32202
www.sgrlaw.com | My Bio | vCard



From: Rivera, Richard
Sent: Tuesday, July 6, 2021 5:04 PM
To: 'Gary Schepps' <legal@schepps.net>
Subject: Fee Amount

Gary,

Attached is a spreadsheet showing the time that was spent on the motion to compel. We seek a total of \$1,693.00.

As we discussed, we are looking for a conditional agreement on the amount of fees to be awarded for work done thus far. This amount will not be paid if the motion for reconsideration is granted and the fee entitlement is vacated. However, if the motion for reconsideration does not result in the court vacating the finding of an entitlement to fees, and we spend more time in responding to the motion, then we reserve the right to seek those additional amounts as well.

Please confirm that we have an agreement or we can set a call to further discuss.

Thank you,
Rich

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From: Gary Schepps <legal@schepps.net>
To: "Rivera, Richard" <rrivera@sgrlaw.com>
Subject: Re[2]: NDTX 3:19-cv-01939-M - Mercury Luggage v. Domain Protection LLC - Re[2]: Fee Amount
Delivery-date: Thu, 08 Jul 2021 21:37:50 -0400

Rich,

The controlling precedent for fees incurred is *Marre v. US*, 38 F.3d 823 (5th Cir. 1994), adopting the Eight Circuit view that "a party 'actually incurs' only the amount owed" to their attorney under their retainer contract. Also, the law is clear you are not entitled to fees for items such as conference efforts.

My suggestion is that we agree on \$1,500.00 as the amount you would be entitled to for making your motion, (if entitled to fees), if the court uses an *In Blanchard v. Bergeron*, 489 U.S. 87, 109 S.Ct. 939, 103 L.Ed.2d 67 (1989), 'compensation' standard, but not if the court uses a *Marre* 'amount owed' standard -- which fee amount would probably be zero in this case, but I am also open to agreeing with you on an hourly salary rate as an 'amount owed' rate, if those rates are reasonable.

Kind regards,

Gary

you wrote:

- > We are entitled to a lodestar calculation based on the amount of
- > hours expended times the reasonable and customary hourly rate in the
- > geographic region. See *Tollett v. City of Kemah*, 285 F.3d 357, 367 (5th Cir. 2002).

Thursday, July 8, 2021, 12:32:15 PM, thread:

Dear Gary:

Attached are the firm bios for Alan Wachs and myself.

As for the claim that we are only entitled to the hourly salary of the attorneys and paralegal providing the services, this is inconsistent with Fifth Circuit law. As such, we will not be providing the salary information for me, Mr. Wachs, or Ms. Smith. We are entitled to a lodestar calculation based on the amount of hours expended times the reasonable and customary hourly rate in the geographic region. See *Tollett v. City of Kemah*, 285 F.3d 357, 367 (5th Cir. 2002). Our rates are reasonable, especially in light of your representation in your September 23, 2019 letter (attached) that you would be charging \$795 an hour in defending this suit, and would look to my client to pay that rate. The rates sought are less than half of yours.

Further an award of fees under Rule 37 encompasses all amounts necessarily incurred as a result of the failure to provide the discovery. *Id.* Although Judge Horan limited the award to "attorneys' fees in connection with bringing this motion to compel," this would include the limited discussion between counsel for Mercury about the issues to be discussed in the motion, the filing of the deposition transcript in support of the motion, and attempting to confer with opposing counsel as required under Rule 37 and the Local Rules.

In the interest of resolving this without any unnecessary motion practice, we will agree to reduce our fee claim to \$1,500 for the work done on the motion to compel. Our agreement would be subject to the court not vacating the entitlement to fees based on the motion for reconsideration. If however, the court denies the motion for reconsideration, the \$1,500 only liquidates the amounts for the initial motion and Mercury would reserve the right to seek the additional fees related to responding to the motion for reconsideration.

If you and your client are agreeable to the above, please let me know and I will draft a joint report to reflect the agreement.

Thank you,
Rich

Richard D. Rivera
Attorney at Law

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From: Gary Schepps <legal@schepps.net>
Sent: Wednesday, July 7, 2021 4:25 PM
To: Rivera, Richard <rrivera@sgrlaw.com>
Subject: NDTX 3:19-cv-01939-M - Mercury Luggage v. Domain Protection LLC - Re[2]: Fee Amount

CAUTION: This email is from an external source. Do not click links or attachments unless it's from a verified sender.

Rich,

Please see the attached correspondence.

Kind regards,

Gary

Tuesday, July 6, 2021, you wrote:

Gary,

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Rich

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